

REMARKS

Applicants file concurrently herewith a Request for Continued Examination (RCE) in response to the Final Office Action mailed June 5, 2007, (hereinafter, "Office Action"). In the Office Action, the Examiner rejected claims 8, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 2002/0062392 to Nishikawa et al. (hereinafter, "*Nishikawa*") in view of U.S. Patent No. 4,825,209 to Sasaki et al. (hereinafter, "*Sasaki*").

By this response, Applicants hereby amend claim 8, and add new claims 15 and 16. Claims 1-7 and 10-13 were previously canceled. Claims 8, 9, and 14-16 are currently pending.

In light of the foregoing amendments and based on the reasoning presented below, Applicants traverse the rejections of claims 8, 9, and 14 under 35 U.S.C. § 103(a), and request the allowance of pending claims 8, 9, and 14-16.

I. Priority Under 35 U.S.C. § 119

As a preliminary matter, Applicants respectfully request the Examiner to acknowledge receipt of the certified copies of the priority documents at items 12 and 12(a) on the Office Action Summary. In support of this request, Applicants provide herewith a copy of the letter requesting the Claim For Priority dated June 25, 2003; cover sheet for priority document Japanese Patent Application No. 2002-188444, filed June 27, 2002; and the date-stamped postcard acknowledging receipt of the documents by the United States Patent and Trademark Office.

II. Information Disclosure Statement

Applicants thank the Examiner for the acknowledgement of the Information Disclosure Statements filed 06/25/2003, 11/05/2003, 01/13/2005 and 04/18/2005. In addition, Applicants respectfully request that the Examiner initial the "Notification of Reasons for Rejection issued by Japanese Patent Office on March 8, 2005, in Japanese Application No. 2002-188444." This document was listed on the form PTO SB/08 filed April 18, 2005, a copy of which is provided herewith for the Examiner's convenience.

III. Claim Rejections Under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 8, 9, and 14 under 35 U.S.C. § 103(a) as being unpatentable over *Nishikawa* in view of *Sasaki*. "To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must disclose or suggest all the claim limitations. See *M.P.E.P.* § 2142, 8th Ed., Rev. 5 (August 2006). Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed." *USPTO Memorandum* from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, p. 2. "[T]he analysis supporting a rejection ... should be made explicit" and it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements in the manner claimed." *Id.* (citing *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007)).

A *prima facie* case of obviousness has not been established because, among other things, none of the cited art, nor any obvious variant thereof, taken alone or in any reasonable combination, discloses or suggests each and every element of Applicants' claims.

A. *Nishikawa*

Nishikawa fails to disclose or suggest "[a] server apparatus comprising: a network process unit . . . and an AV function unit . . .," as recited in amended independent claim 8. Instead, *Nishikawa* discloses "[an] AV system network 20 compris[ing] an AV system server 22, a television 26, a digital VCR 28 and other AV appliances, all of which are connected to the AV system network 20 via an AV network bus 24." *Nishikawa*, ¶ 0030 (emphasis added). While the Examiner alleges on page 2 of the Office Action that *Nishikawa*'s communication unit 50 of AV system server 22 corresponds to Applicant's "network process unit," and *Nishikawa*'s television 26 and digital VCR 28 correspond to Applicant's "AV function unit," these features are nevertheless disposed in AV system network 20, and not in AV system server 22. In contrast to *Nishikawa*, claim 8 clearly requires that the network process unit and AV function unit are included in the server apparatus.

According to the M.P.E.P., "[a]ny terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation." M.P.E.P. § 2111.02(I) (citation omitted) (emphasis added). While *Nishikawa* discloses AV system network 20, *Nishikawa* fails to disclose "[a] server apparatus comprising: a network process unit . . . and an AV function unit . . .," as recited in independent claim 8.

In addition, *Nishikawa* also fails to disclose or suggest “the network process unit switching an operation of the AV function unit between a normal operation mode and a standby mode serving to reduce power consumption,” as also recited in independent claim 8. Indeed, the Examiner acknowledges this failure of *Nishikawa*. Specifically, the Examiner states that “*Nishikawa* does not specifically disclose the network process unit switching an operation of the AV function unit between a normal operation mode and a standby mode serving to reduce power consumption.” Office Action, p. 3.

Thus, neither *Nishikawa*, nor any obvious variant thereof, discloses or suggests at least the above-noted recitations of amended independent claim 8. Independent claim 14, although of different scope, recites subject matter similar to that of amended independent claim 8. Thus, *Nishikawa* also does not disclose or suggest each and every element of independent claim 14.

B. *Sasaki*

Sasaki fails to overcome the deficiencies of *Nishikawa* in that *Sasaki* also does not teach or suggest, *inter alia*, “[a] server apparatus comprising: a network process unit . . . and an AV function unit . . . ,” as recited in independent claim 8. Indeed, the Examiner does not rely on *Sasaki* for this teaching. Without conceding to the Examiner’s points regarding *Sasaki*, Applicants point out that *Sasaki* instead discloses “a remote control apparatus employing a touch panel, which is capable of sensing coordinates of a specified point, as an input device of a remote control signal as well as display means displaying thereon an image for inputting the operating command to each device remote controlled and an image which indicates

operation status of the device.” *Sasaki*, col. 1, ll. 10-17. That is, *Sasaki* teaches a remote control device, and not the claimed “server apparatus.”

Moreover, because *Sasaki* teaches a remote control device, and not “[a] server apparatus comprising: a network process unit . . . and an AV function unit . . . ,” as recited in independent claim 8, *Sasaki* cannot further disclose or suggest “the network process unit switching an operation of the AV function unit between a normal operation mode and a standby mode serving to reduce power consumption,” as also recited in independent claim 8.

Thus, neither *Nishikawa*, nor *Sasaki*, taken alone or in any reasonable combination, disclose or suggest at least the above-noted elements of independent claim 8. For at least this reason, the Examiner has not established a *prima facie* case of obviousness regarding independent claim 8. Accordingly, the rejection of independent claim 8 under 35 U.S.C. § 103(a) is improper, should be withdrawn, and the claim allowed. Claim 9 should be allowed at least because of its dependence from allowable independent claim 8.

Independent claim 14, although of different scope, recites subject matter similar to that of amended independent claim 8. For at least the same reason as set forth above in connection with amended independent claim 8, the cited references cannot support a rejection of claim 14 under 35 U.S.C. § 103(a), and claim 14 should be allowable over *Nishikawa* and *Sasaki*. New claims 15 and 16 should be allowed at least because of their dependence from allowable independent claim 8.

IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

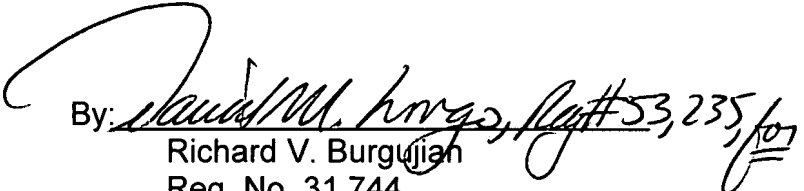
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: August 1, 2007

By:


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Attachments:

- Copy of PTO SB/08 Form, filed April 18, 2005, listing "Notification of Reasons for Rejection issued by Japanese Patent Office on March 8, 2005, in Japanese Application No. 2002-188444;"
- Transmittal Letter for Claim For Priority, dated June 23, 2003;
- Cover Page of Japanese Patent Application No. 2002-188444, filed June 27, 2002;
- Stamped Postcard, dated June 23, 2003.